

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1151 OF 2006
IN
CRIMINAL APPEAL NO.150 OF 2006

Smt Shadan Bupendra Chaudhary ...Applicant

Versus

State of Maharashtra & Ors. ...Respondents

Shri V.B. Tapkir for the Applicant.
Shri D.P. Adsule, A.P.P for the State.

CORAM : A. S. OKA, J.
DATE : DECEMBER 04, 2006.

P.C.:

1. Heard the Advocate for the Applicant. On 07th November, 2006 submissions of the Advocate for the Applicant and the learned A.P.P for the State were fully heard. However, the order was not passed as report of the office was called for as to whether any Appeal under section 454 of the Code of Criminal Procedure, 1973 has been preferred for challenging the direction contained in clause No.7 of the Judgment and Order dated 03rd December, 2003 passed by the Sessions Court in Sessions Case No.270 of 2002. The office has reported that no such Appeal has been preferred. The Advocate for the Applicant was thereafter directed to give notice of this Application to the Advocate representing the accused No.2 in Criminal Appeal No.150 of 2006 which is the Appeal against acquittal preferred

by the State. On the last date though notice was served to the said Advocate, he was not present and therefore, the Application was kept today. The Advocate for the Applicant states that a fresh notice has been duly served to the Advocate appearing for the second accused informing him that the Application is kept today. None appears for the accused No.2.

2. Clause No.7 of the order dated 03rd December, 2003 reads thus:

"(7) The clothes, gold chain and the wrist watch be handed over to P.W.2-Shadan Bhupendra Choudhary R/o: Tungarli, Lanavala, District Pune".

This part of the order has not been challenged by any party by preferring an Appeal. What is pending in this court is the Appeal preferred by the State against an order acquitting the accused Nos.2 and 3. The said Appeal has been admitted only in so far as the accused No.2 is concerned.

3. Therefore, there is no impediment in acting

upon the clause No.7 of the order dated 03rd December, 2003 subject to condition that the Applicant will have to execute a proper bond and undertaking to produce the property in the event this court directs him to do so at the time of hearing of Criminal Appeal No.150 of 2006.

4. Hence, Application is disposed of by passing following order:

(i) The Trial Court is directed to handover the property in terms of clause No.7 of the operative part of the Judgment and Order dated 03rd December, 2003 subject to condition of the Applicant filing before the said court an undertaking and an appropriate bond to maintain the said property in proper condition till the disposal of the Criminal Appeal No.150 of 2006 and to produce the said property before this court in case a direction to that effect is issued by this Court.

(ii) Writ be sent immediately.

(iii) Application is disposed of accordingly.

JUDGE